

McCubbin, Spencer, McHenry, Waters, Anderson and Holliday—29.

So the article was adopted as the 10th article.

Mr. RIDGELY moved to reconsider the vote of the Convention on the article just adopted, for the purpose of moving to amend the same by striking out "one judge," and inserting "three judges."

Mr. PHELPS thought this question had already been decided by the Convention, and that they had determined to have but one judge.

Mr. BOWIE asked the yeas and nays on the motion to reconsider, which were ordered, and being taken, were as follows:

*Affirmative*—Messrs. Chapman, Pres't, Morgan, Ricard, Chambers, of Kent, Donaldson, Wells, Kent, Sellman, Brent, of Charles, Jenifer, Howard, Buchanan, Bell, Chandler, Ridgely, Lloyd, Sherwood, of Talbot, John Dennis, James U. Dennis, Williams, Hodson, Chambers, of Cecil, Miller, Grason, George, Fooks, Jacobs, Thomas, Johnson, Gaither, Biser, Annan, Sappington, McHenry, Thawley, Fiery, Neill, Harbine, Michael Newcomer, Davis, Waters, Holliday, Parke and Brown—44.

*Negative*—Messrs. Lee, Mitchell, Dalrymple, Welch, Dashiell, Eccleston, Phelps, McCullough, McLane, Bowie, Tuck, McCubbin, Spencer, Wright, Dirickson, Gwinn, Sherwood, of Baltimore city, Ware, Schley, John Newcomer, Brewer, Anderson, Weber, Slicer, Fitzpatrick and Shower—25.

So the Convention reconsidered their vote on said article.

Mr. JOHNSON. Has the proposition been formally made to strike out "one" and insert "three."

Mr. RIDGELY. I was about to make that motion.

Mr. JOHNSON. — I am very happy that my friend from Baltimore county anticipated me in moving to reconsider the proposition, for the purpose of moving to strike out one and insert three. I make that motion now, so as to provide for three judges of the orphans' court.

The PRESIDENT. The Chair thinks that before making that motion it will be necessary for the gentleman to move to reconsider the vote by which the Convention adopted the amendment striking out "one judge" and inserting "three judges."

Mr. JOHNSON. Then I make that motion.— When I gave my vote for inserting one judge instead of three, it was not settled by this Convention that the judges of the orphans' court should be elected by the people; nor was it settled in this Convention that there should be a *per diem* allowance, and that it should be paid by the respective counties of the State. Both of these propositions have now been settled. I will here remark that one reason why I object to the present system as existing in this State, grows out of the fact that the Governor, in exercising the appointing power, knows not the man whom he places in office. Therefore, all the arguments which gentlemen have made here, showing the utter incompetency of the judges of the or-

phans' court, is an attack more upon the executive appointing power than upon the individuals who have been appointed.

The Governor is governed by politicians, and these politicians have put in office their most noisy and ardent friends. Thus, it may be true, that in many counties the most unworthy and incompetent judges have been appointed. If you have decided here to make a radical change, and upon the principle that the whole people should appoint the judges of the supreme court and the judges of the district courts; if you have entrusted the people, by one consolidated vote, to appoint these consolidated officers, I ask why will you not entrust the people to appoint three judges of their own county, who are to attend to their routine of business from day to day, and from week to week? You have trusted the people to appoint the judges of the superior and district courts, who are to be aided in the administration of their judicial duties by a jury, but here you appoint but one levy-courtman, who has no jury to aid him, and who is judge both of fact and law. You give him enormous power without giving him any one to aid him. If the theory is good which trusts the people with the appointment of their superior court and district court judges, the argument multiplies itself that you should confide to them the appointment of the judges of the orphans' court. The judicial districts are large, and therefore the people are less familiar with the judges elected than the judges of the orphans' courts. The arguments here have been replete with the reason that these judges will be scattered over the counties, and that they will know a great deal of the territory, and can aid each other and assist each other in the investigation of facts, and that there will always be sense enough in the community to appoint men worthy of the office, and qualified to discharge all of its duties.

But this is a domestic court. I desire three judges, instead of one, because plain and unlettered people can go there and receive advice and counsel, whereas, if you have one judge, and that one be a lawyer, there is no guardian and administrator unless they take with them counsel. The simple, natural way of doing business, which brings justice so easy, and so near home, has a recommendation and influence with me which shall control my vote. If I should mistrust the people on this subject, I should consider all the votes I have heretofore given as wrong. The people have complained of the mode of appointing the levy court. The judges of that court have been thrust upon them without consulting them, but upon the recommendation of some politicians, whose recommendations alone reach the executive chamber. Hence it is that so many unworthy men fill the office of judges of the levy court. I shall give a cheerful, ready, and willing vote to insert three judges instead of one.

The question being on the motion of Mr. Johnson to reconsider,

Mr. BOWIE asked the yeas and nays, which